IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 4015 of 2005

Between:

Mannem raghavendra rao S/o.Jallaiah
R/o.Buchireddypalem illage and Mandal, Nellore District.

... PETITIONER

AND

1 The District Collector Nellore, Nellore Ditrict.
2 The Revenue Divisional Officer, Kavali, Nellore District.
3 The Mandal Revenue Officer, Sangam Mandal, Nellore District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in assigning/allotting the land to an extent of Ac 1.48 cents in Sy.No.376/A Situated at Annareddypalem Village, Sangam Mandal, Nellore District to third parties as illegal, arbitrary and offends Articles 14 and 21 of the Constitution of Idia and consequently direct the respondent not to evict me from the land to an extent of Ac.1.48 cents in Sy.No.376/A situated at Annareddypalem village, Sangam Mandal, Nellore District.

Counsel for the Petitioner: MS.M.VIDYAVATHI

Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following:

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ORDER:

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This writ petition is filed seeking a declaration that the action of the respondents in proposing to assign the land to an extent of Ac.1.48 cents situated in Sy.No.376/A at Annareddypalem Village, Sangam Mandal, Nellore District, to third parties as arbitrary and illegal.

The petitioner claims that his father who was an ex-serviceman was put in possession of the said land in the year 1953 and the then Tahsildar, Kovur accorded sanction to him to cultivate an extent of Ac.0-91 cents vide proceedings dated 27-1-1954. After the death of his father, his mother was issued a D-Form patta in respect of Ac.0-75 cents out of the said land. She continued in possession and enjoyment of the said land till her death in 1997 and thereafter the petitioner has been continuing in possession and enjoyment and his name was also recorded in the pattadar pass book. It is claimed that as a matter of fact he has been in possession of a total extent of Ac.1-48 cents out of which patta was granted in respect of Ac.0-75 cents . Since then they have been in continuous possession and enjoyment of the said lands and the patta is also subsisting. However, the petitioner understands that the respondents are proposing to assign the land belonging to the petitioner to the landless poor. The petitioner contends that since the patta granted in favour of his father and mother is still subsisting and they are continuing in possession and enjoyment of the land to an extent of Ac.1-48 cents, there is absolutely no

justification in the action of the respondents in proposing to grant pattas in favour of the third parties in respect of the said land. In those circumstances, the petitioner made a representation dated 24-01-2005, requesting the third respondent-Mandal Revenue Officer to look into the matter and to exclude the land in his possession from the land proposed to be assigned to third parties.

However, the respondents herein without considering the request of the petitioner are proceeding with further steps. Hence, this writ petition.

In case, the patta granted in favour of the petitioner's father and mother is still subsisting and the petitioner is continuing in possession of the land in question, the same cannot be treated as vacant land for the purpose of assigning the same to the third parties. Even if for any reason, the petitioner is not entitled to continue in possession, he cannot be dispossessed without following due process of law.

In the circumstances, particularly keeping in view the allegations made against the third respondent, the writ petition is disposed of, granting liberty to the petitioner to make a fresh representation before the respondents 2 and 3 together with all the relevant material to substantiate his claim within a period of two weeks from today and on such representation, the respondents 2 and 3 shall enquire into the same and pass appropriate orders, within a period of four weeks thereafter, in accordance with law. Till such orders are passed, the respondents are directed not to dispossess the petitioner from the land in question.

The Writ Petition is accordingly disposed of. No order as to costs.

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G. ROHINI, J

Dated: 02-03-2005

NOTE: Furnish C.C. in two days.

B/o.

LSK

ASSISTANT REGISTRAR

To

1 The District Collector Nellore, Nellore Ditrict.
2 The Revenue Divisional Officer, Kavali, Nellore District.
3 The Mandal Revenue Officer, Sangam Mandal, Nellore District.

4 Two C.Cs. to the G.P. for Revenue, High Court Buildings, Hyderabad. (O.U.T.)

5 Two C.D. copies.